

AMENDED IN ASSEMBLY JUNE 1, 2005

AMENDED IN ASSEMBLY MAY 2, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1717

Introduced by Assembly Member Lieber

February 22, 2005

An act to amend ~~Section 19524~~ *Sections 19087 and 19254* of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1717, as amended, Lieber. Franchise Tax Board: filing enforcement cost recovery fee.

Existing income tax laws require the Franchise Tax Board to impose a filing enforcement cost recovery fee on repeat nonfilers of specified tax returns *and authorize the Franchise Tax Board to issue a notice of proposed assessment, as defined, to a taxpayer who fails to file a return or files a false or fraudulent return with intent to evade the tax, as specified.*

This bill would require the board to impose that fee on all nonfilers, as provided. This bill would become operative with respect to assessments issued on and after January 1, 2007.

This bill would also require that a notice of proposed assessment issued by the Franchise Tax Board to a taxpayer contain language informing the taxpayer that a toll-free telephone assistance regarding the notice is available in Spanish or another language, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 19087 of the Revenue and Taxation*
2 *Code is amended to read:*

3 19087. (a) If any taxpayer fails to file a return, or files a false
4 or fraudulent return with intent to evade the tax, for any taxable
5 year, the Franchise Tax Board, at any time, may require a return
6 or an amended return under penalties of perjury or may make an
7 estimate of the net income, from any available information, and
8 may propose to assess the amount of tax, interest, and penalties
9 due. All the provisions of this part relative to delinquent taxes
10 shall be applicable to the tax, interest, and penalties computed
11 hereunder.

12 (b) When any assessment is proposed under subdivision (a),
13 the taxpayer shall have the right to protest the same and to have
14 an oral hearing thereon if requested, and also to appeal to the
15 board from the Franchise Tax Board's action on the protest; the
16 taxpayer must proceed in the manner and within the time
17 prescribed by Sections 19041 to 19048, inclusive.

18 (c) *Any notice of proposed assessment issued under*
19 *subdivision (a) shall contain language informing the taxpayer*
20 *that, if English is the taxpayer's second language, the taxpayer*
21 *may obtain toll-free telephone assistance regarding that notice*
22 *and may request tax assistance in Spanish, or another language,*
23 *to reasonably accommodate the taxpayer, in accordance with the*
24 *Dymally-Alatorre Bilingual Services Act, Chapter 17.5*
25 *(commencing with Section 7290) of Division 7 of Title 1 of the*
26 *Government Code.*

27 ~~SECTION 1.—~~

28 *SEC. 2. Section 19254 of the Revenue and Taxation Code is*
29 *amended to read:*

30 19254. (a) (1) If any person, other than an organization
31 exempt from taxation under Section 23701, fails to pay any
32 amount of tax, penalty, addition to tax, interest, or other liability
33 imposed and delinquent under Part 10 (commencing with Section
34 17001), Part 11 (commencing with Section 23001), or this part, a
35 collection cost recovery fee shall be imposed if the Franchise Tax
36 Board has mailed notice to that person for payment that advises
37 that continued failure to pay the amount due may result in
38 collection action, including the imposition of a collection cost

1 recovery fee. The collection cost recovery fee shall be in the
2 amount of:

3 (A) In the case of an individual, partnership, limited liability
4 company classified as a partnership for California income tax
5 purposes, or fiduciary, eighty-eight dollars (\$88) or an amount as
6 adjusted under subdivision (b).

7 (B) In the case of a corporation or limited liability company
8 classified as a corporation for California income tax purposes,
9 one hundred sixty-six dollars (\$166) or an amount as adjusted
10 under subdivision (b).

11 (2) If any person, other than an organization exempt from
12 taxation under Section 23701, fails or refuses to make and file a
13 tax return required by Part 10 (commencing with Section 17001),
14 Part 11 (commencing with Section 23001), or this part, and the
15 Franchise Tax Board issues ~~an assessment~~ *a notice of proposed*
16 *assessment* pursuant to Section 19087, the Franchise Tax Board
17 shall impose a filing enforcement cost recovery fee in the amount
18 of:

19 (A) In the case of an individual, partnership, limited liability
20 company classified as a partnership for California income tax
21 purposes, or fiduciary, fifty-one dollars (\$51) or an amount as
22 adjusted under subdivision (b).

23 (B) In the case of a corporation or limited liability company
24 classified as a corporation for California income tax purposes,
25 one hundred nineteen dollars (\$119) or an amount as adjusted
26 under subdivision (b).

27 (b) (1) For fees imposed under this section during the fiscal
28 year 1993–94 and fiscal years thereafter, the amount of those fees
29 shall be set to reflect actual costs and shall be specified in the
30 annual Budget Act.

31 (2) (A) *For fees imposed on or after January 1, 2007, the*
32 *amount of those fees shall be allocated as specified under*
33 *subparagraph (B) among the class of taxpayers that fails to*
34 *respond to a demand for return or request for return, as*
35 *described in Section 19133 and the regulations issued*
36 *thereunder, but only where the Franchise Tax Board issues a*
37 *notice of proposed assessment pursuant to Section 19087.*

38 (B) *In the case of accounts for which a request for return is*
39 *mailed, a fee shall be imposed in an amount that is 50 percent*

1 *less than the fee imposed on those accounts for which a demand*
2 *for return is mailed.*

3 (c) Interest shall not accrue with respect to the cost recovery
4 fees provided by this section.

5 (d) The amounts provided by this section are obligations
6 imposed by this part and may be collected in any manner
7 provided under this part for the collection of a tax.

8 (e) (1) Subdivision (a) is operative with respect to the notices
9 for payment or formal legal demands to file, either of which is
10 mailed on or after September 15, 1992.

11 (2) The amendments made to this section by the act adding
12 this paragraph shall be operative with respect to any assessment
13 issued on and after January 1, 2007.

14 (f) The Franchise Tax Board shall determine the total amount
15 of the cost recovery fees collected or accrued through June 30,
16 1993, and shall notify the Controller of that amount. The
17 Controller shall transfer that amount to the Franchise Tax Board,
18 and that amount is hereby appropriated to the Franchise Tax
19 Board for the 1992–93 fiscal year for reimbursement of its
20 collection and filing enforcement efforts.